

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ROBERTO MATA,

Plaintiff,

-against-

AVIANCA, INC..

**Defendant:**

Case No. 22-cv-1461 (PKC)

**DECLARATION OF THOMAS R. CORVINO, ESQ.**

I, Thomas R. Corvino, declare under penalty of perjury:

1. I am an attorney duly licensed to practice law in the State of New York as well as in the United States District Courts for the Southern District of New York and the Eastern District of New York. I make this Declaration on the basis of personal knowledge unless otherwise stated.

2. I am the sole equity Partner at the firm Levidow, Levidow, & Oberman, P.C. (the “Firm”), which represents Roberto Mata in the above-captioned action.

3. I submit this declaration on behalf of the Firm in response to the Court's Order to Show Cause dated May 26, 2023 (Docket Entry ("DE") DE 33, the "OSC").

4. The Firm is a four-lawyer firm based in New York City that focuses primarily on workers compensation and personal injury matters in New York State courts as well as before the New York State Workers Compensation Board. The Firm and its lawyers do not regularly litigate in federal court. The Firm has never been the subject of professional discipline or sanctions in any proceeding.

5. The Firm first began representing Mr. Mata in September 2019, when Mr. Mata retained Steven A. Schwartz.

6. Mr. Schwartz is a highly-experienced attorney who practices in the areas of workers compensation law and personal injury (among other areas). His practice, like the Firm's, is generally limited to New York state court and the Workers Compensation Board.

7. This matter was originally filed in New York state court with Mr. Schwartz as counsel of record. Ultimately, however, it was removed to this Court, after which the Defendant filed a motion to dismiss. At that time, Firm associate Peter LoDuca ("Mr. LoDuca") became counsel of record because Mr. Schwartz was not admitted in the S.D.N.Y. and Mr. LoDuca was. Mr. Schwartz continued to work on the matter and handle the substantive legal research and writing.

***The Firm's Legal Research Resources***

8. With respect to legal research resources, the Firm maintains a subscription to Fastcase, which is an online legal research database that is available to all lawyers at the Firm. Fastcase allows firms to select from a variety of subscription levels, based on the firm's needs. Given that the Firm practices almost exclusively in state courts in New York, the Firm's Fastcase use was mostly limited to searching for state court precedent. The Firm does not maintain a subscription to Westlaw or LexisNexis given their prohibitively high cost, and has historically been able to meet its legal research needs with Fastcase.

9. Upon receiving the Order in this matter and learning that Mr. Schwartz was unable to access the Fastcase federal database, I immediately looked into the Firm's Fastcase subscription to determine both the level of access currently available to the Firm's lawyers and also to make sure that going forward the Firm would have access to Fastcase's federal case research database.

10. On or about May 30, 2023, the Firm spoke with a representative from Fastcase and learned that although historically the Firm already had a federal law subscription to Fastcase,

the Firm's access to the federal case database was inadvertently deactivated by Fastcase because of a billing error. Because the Firm rarely appears in federal court, and therefore, rarely conducted research on issues of federal law, I was unaware of the inadvertent deactivation. In addition to correcting the billing issues, Fastcase confirmed that going forward the Firm would have full access to research federal cases within Fastcase.

11. We have also reminded all lawyers at the Firm about the Fastcase subscription and also reiterated that if any lawyer needs research resources beyond Fastcase that they should speak to me or another partner at the Firm to ensure that the correct resources are available.

***Remedial Measures***

12. As the sole shareholder of the Firm, I am mortified that the Firm and Messrs. Schwartz and LoDuca are being accused of misconduct. I have known both of these lawyers for more than 20 years – Mr. Schwartz for approximately thirty years and Mr. LoDuca for approximately twenty-six years – know them to be highly competent at the work they generally do, and have never known them to engage in misconduct of any kind. Yet I acknowledge that Mr. Schwartz should have been more careful here in deciding to dabble in a new, unknown – albeit highly touted – technology. And they should have been especially careful when the Court and adversary began to question the authenticity of the cases they cited. I deeply apologize to the Court for what has occurred here. More important, I want to make sure this does not happen again.

13. In addition to ensuring that the Firm's lawyers have access to sufficient research resources, the Firm has also taken other remedial measures in connection with the Order.

14. Shortly after receiving the Order, the Firm retained outside ethics counsel, Frankfurt Kurnit Klein & Selz P.C. ("Frankfurt Kurnit") to help the Firm respond to the Order and also suggest other remedial measures. In the near future, Frankfurt Kurnit will conduct a

one-hour continuing legal education (CLE) training that will be mandatory for all lawyers at the Firm on technological competence and alternative intelligence (AI) programs.

15. In addition, the Firm intends to conduct an internal training that will be mandatory for all lawyers and staff on the proper procedures for notarizing documents, including a requirement that the notary and the signer verify the accuracy of the information in the notary signature section.

16. The Firm takes this matter seriously and wants to assure the Court that it is not indicative of the manner in which the Firm regularly practices. It was certainly never the Firm's intention, or the intention of any of its lawyers, to mislead the Court. As this Court is likely aware, there has also been significant public attention to this incident, which has caused serious professional embarrassment for the Firm.

17. Under these circumstances and in light of the remedial measures that the Firm has already put in place, we are confident that an error like this is unlikely to happen again. The Firm therefor respectfully requests that the Court decline to impose sanctions in this matter.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 6, 2023

  
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Thomas R. Corvino